

TTAB

UNITED STATES PATENT AND TRADEMARK
OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: March 12, 2007

Morlee Group. Inc.

340 Sovereign Road,
London, Ontario, N5W 5S1
CANADA

Cancellation No. 92047199
Reg. No. 2649780

Randy M. Friedberg
Olshan Grundman Frome Rosenzweig, LLC
65 East 55th Street,
New York, NY 10022

Profound Beaty, Inc.

v.

Morlee Group. Inc.

Vionette Baez, Paralegal:

A petition, a copy of which is attached, has been filed to
cancel the above-identified registration.

Proceedings will be conducted in accordance with the
Trademark Rules of Practice.

ANSWER IS DUE FORTY DAYS after the mailing date hereof.
(See Trademark Rule 2.196 for expiration date falling on
Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark
Rules of Practice, set forth in Title 37, part 2, of the Code of
Federal Regulations. The parties are reminded of the recent
amendments to the Trademark Rules that affect the rules of
practice before the TTAB. See Rules of Practice for Trademark-
Related Filings Under the Madrid Protocol Implementation Act, 68
Fed. R. 55,748 (September 26, 2003) (effective November 2,
2003); Reorganization of Correspondence and Other Provisions, 68



04-12-2007

Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), are available at www.uspto.gov/web/offices/dcom/ttab/.

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

Discovery and testimony periods are set as follows:

Discovery period to open:	4/1/2007
Discovery period to close:	9/28/2007
30-day testimony period for party in position of plaintiff to close:	12/27/2007
30-day testimony period for party in position of defendant to close:	2/25/2008
15-day rebuttal testimony period for plaintiff to close:	4/10/2008

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may

be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

G L S H A N

OLSHAN GRUNDMAN FROME ROSENZWEIG & WOLOSKY LLP

PARK AVENUE TOWER
65 EAST 55TH STREET
NEW YORK, NEW YORK 10022
TELEPHONE: 212.451.2300
FACSIMILE: 212.451.2222

WWW.OLSHANLAW.COM

DIRECT DIAL: 212-451-2321
EMAIL: RFRIEDBERG@OLSHANLAW.COM

March 2, 2007

Commissioner For Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Petitioner: Profound Beauty, Inc.
Mark to be Cancelled: @MOSPHERE
Registration No.: 2,649,780

TTAB

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To Whom It May Concern:

Enclosed herewith please find an original and duplicate copy of a Petition to Cancel and a check in the amount of Three Hundred (\$300.00) Dollars to cover the fees associated with this matter.

If there is anything further that you require, please let us know.

Very truly yours,

Randy M. Friedberg

Encls.

cc: Barbara Novick
Marie Stareck

03-02-2007

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #

NEW JERSEY OFFICE
2001 ROUTE 46 / SUITE 202
PARSIPPANY, NEW JERSEY 07054
TELEPHONE: 973.331.7200
FACSIMILE: 973.331.7222

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Profound Beauty, Inc.

v.

Morlee Group, Inc.

Cancellation No. _____

Registration No.: 2,649,780

Date of Issue: November 12, 2002

PETITION FOR CANCELLATION

Petitioner: Profound Beauty, Inc. (a New York corporation) located and doing business at 32-02 Queens Blvd., 6th Floor, Long Island City, New York, believes that it is or will be damaged by Registration No. 2,851,771 and hereby petitions to cancel same.

Description of Respondent's registration: Filed on February 22, 1999, for the mark @TMOSPHERE and Design registered on the Principal Register, in class 003 for hair shampoo, conditioner, body wash, body lotion, hand and body cream, and bath additives, foam bath, bath salts; claiming first use on January 30, 2001 and first use in commerce on January 30, 2001.

As grounds for this Petition, which is based on Petitioner's knowledge and good faith belief, it is alleged that:

1. Respondent has abandoned said registered mark due to non-use. 15 U.S.C.A. § 1064. On information and belief, Respondent is out of business and currently makes no commercial use of the trademark @TMOSPHERE and Design, and Respondent has thereby abandoned any legal rights which it may have possessed in said trademark.

2. Petitioner is likely to be damaged by continuance of said registration in that petitioner has a bona fide intent to use similar marks, and has filed intent-to-use applications to register the marks, and reasonably believes registration of the marks may be refused because of respondent's registration.

WHEREFORE, Petitioner prays that Registration No. 2,649,780 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

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Petitioner hereby appoints Randy M. Friedberg and Nahum M. Palefski, members of the bar of the State of New York and the law firm of Olshan Grundman Frome Rosenzweig & Wolosky LLP, to act as attorneys for Petitioner herein, with full power to prosecute said petition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Petition for Cancellation.

Dated: March 2, 2007

OLSHAN GRUNDMAN FROME
ROSENZWEIG & WOLOSKY LLP

By: _____

Randy Friedberg
Park Avenue Tower
65 East 55th Street
New York, New York 10022
(212) 451-2300
Attorney for Petitioner
Profound Beauty, Inc.

AN EQUAL OPPORTUNITY EMPL

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